

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)

Cellular Service and Other Commercial)
 Mobile Radio Services in the Gulf of)
 Mexico)

WT Docket No. 97-112

Amendment of Part 22 of the Commission's)
 Rules to Provide for Filing and Processing)
 of Applications for Unserved Areas in the)
 Cellular Service and to Modify Other)
 Cellular Rules)

CC Docket No. 90-6

REPLY COMMENTS OF AT&T WIRELESS SERVICES, INC.

AT&T Wireless Services, Inc. ("AT&T"), by its attorneys, hereby submits its reply comments in the above-captioned proceeding.^{1/}

Introduction and Summary

As the two licensed GMSA carriers, Petroleum Communications, Inc. ("PetroCom") and Bachow/Coastel, L.L.C. ("Coastel") (collectively "GMSA carriers") would have it, they are entitled to the best of both worlds. For purposes of measuring GMSA carriers' service areas, they claim entitlement to the entire Gulf of Mexico ("Gulf") up to the coastline,^{2/} and PetroCom

^{1/} In the Matter of Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico; Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, Second Further Notice of Proposed Rulemaking, WT Docket No. 97-112 and CC Docket No. 90-6, FCC 97-110 (rel. Apr. 16, 1997) ("Notice").

^{2/} Comments of Bachow/Coastel, L.L.C. ("Coastel Comments") at 13-24 (Commission should not create a Coastal Zone); Comments of Petroleum Communications, Inc. ("PetroCom Comments") at 4-8 (create an Exclusive Zone and functionally indistinct Coastal Zones, all of which would be awarded to PetroCom).

argues that the Commission should license no other commercial mobile radio service (“CMRS”) that might compete with cellular service.^{3/} As Coastel admits, revenues from its high-priced roaming charges on boating traffic help subsidize its service to its oil and gas platform customers.^{4/} On the other hand, for purposes of coverage of coastal waters, the GMSA carriers want the right to freely abandon service without losing the right later to oust carriers who fill in the resulting gap in coverage.^{5/} PetroCom also seeks to escape other obligations faced by land-based cellular licensees, such as provision of E-911 service and universal service obligations.^{6/}

The Commission should reject the GMSA carriers’ self-serving misreading of the Court of Appeals’ remand, which would create substantial interference problems without providing adequate service to coastal customers. Rather, to ensure reliable coastal coverage, the Commission should permit the extension of land-based licensees’ systems. The Commission should also continue to prohibit GMSA carriers from placing transmitters in land-based carriers’ CGSAs without consent.

I. The Commission Has the Authority to Adopt New Rules Regarding Cellular Coverage in the Gulf

The GMSA carriers argue that the D.C. Circuit’s order in Petroleum Communications, Inc. v. Federal Communications Commission^{7/} requires the Commission to give the Gulf incumbents complete flexibility to move from site to site in a service area encompassing the Gulf

^{3/} See PetroCom Comments at 16-19. Coastel did not address the issue of licensing other CMRS providers for the GMSA.

^{4/} See Coastel Comments at 37.

^{5/} See id. at 14, 19-24; PetroCom Comments at 8-9.

^{6/} See PetroCom Comments at 21-22 (E-911); id. at 22-23 (universal service).

^{7/} 22 F.3d 1164 (D.C. Cir. 1994).

up to the shoreline.^{8/} They complain that, by proposing an Exclusive Zone that does not include the coastal waters,^{9/} the Commission is contravening the Court's instructions.

The GMSA carriers significantly inflate the Court of Appeals' requirements. The Petroleum Communications remand addresses solely the Commission's failure to take into account that the GMSA carriers' reliable service areas follow the relocations of their primary customers, the oil platform. Given these fluctuating reliable service areas, the Court ruled that the Commission must give GMSA carriers the ability to relocate their facilities without sacrificing the newly unserved areas to other carriers.^{10/} Significantly, the Court of Appeals did not, as PetroCom and Coastel would have the Commission believe, preclude revisions to CGSAs or require land-based tower siting for GMSA carriers. Nor did the Court preclude the Commission from crafting rules aimed at its objective of ensuring ubiquitous, reliable coverage in coastal waters.^{11/}

Where oil platforms happen to be located near the coast, GMSA carriers often provide cellular service to boaters. The Commission's proposal to create a separately-licensed Exclusive

^{8/} Coastel Comments at 14; PetroCom Comments at 4-7. Although PetroCom nominally supports creation of separate Coastal and Exclusive Zones, see PetroCom Comments at 7-8, under its proposal the Coastal Zone would be granted outright to PetroCom, id. at 8, and PetroCom would retain all Exclusive Zone rights, see, e.g., id. at 8-9, effectively rendering the Coastal Zone nothing more than an extension of the Exclusive Zone.

^{9/} See Notice at 15, ¶ 29.

^{10/} See Petroleum Communications, Inc., 22 F.3d at 1173. Contrary to Coastel's Comments, this is the only relief implicated by the D.C. Circuit's opinion. Cf. Coastel Comments at 13-21.

^{11/} See Notice at 14, ¶ 27; id. at 15, ¶¶ 29-30; see also In re Application of Advanced Mobile Phone Service, et al., Memorandum Opinion and Order Granting Application and Designating Applications for Hearing, 54 Rad. Reg. 2d (Pike & Fischer) 260, 271 n.35 (Common Carrier Bur. 1983) ("the provision of marine service may be a significant part of Miami's cellular service system. . . . [A] large segment of the customer population will expect and desire marine applications of cellular service.").

Zone for GMSA carriers does not preclude continuation of this service. Rather, the Commission has correctly recognized that reliance on oil platform communications providers, whose interests and ability to serve a particular area depend largely on the plans of their oil platform customers, is not the best method to ensure reliable service along the coastline.^{12/}

The Commission is unquestionably entitled to take this important policy into account in determining the appropriate boundaries of the GMSA. There is nothing in the D.C. Circuit's order to suggest that the Commission's goals on remand are solely to accommodate the needs of the GMSA carriers and that it must ignore all of its other valid policies in according GMSA carriers the limited relief set forth in the Court's order. Considering that the existence of a separate GMSA is primarily a product of the needs of oil and gas platforms, that the nature of such service renders it inadequate to ensure ubiquitous, reliable coverage along the Gulf coast, and that the Commission separately seeks to ensure such coastal coverage, limiting the GMSA to the 12 nautical mile mark is an entirely reasonable solution.

II. The Carriers Best Able to Serve the Gulf Coastal Waters Reliably Are Adjacent Land-Based Licensees

The comments submitted in this proceeding reinforce one of AT&T's main points: the best way to ensure ubiquitous, reliable coverage to the coastal waters between the Gulf coast and the proposed Exclusive Zone is to allow existing land-based licensees to extend their CGSAs to

^{12/} See Notice at 15, ¶ 31; id. at 20, ¶ 44; cf. id. at 21, ¶ 46 (siting of GMSA carriers' facilities depends on business decision of platform owner). Coastel freely admits that "Gulf-based carriers are at the mercy of existing platforms at any given point in time," Coastel Comments at 37, which makes it "extraordinarily difficult to find water-based locations for their cellular transmitting equipment." Id. at 36. Moreover, as noted by the American Petroleum Institute, which represents the interests of oil and gas producers in the Gulf, the "needs of entities engaged in deepwater drilling operations" are "often immediate and shifting." Comments of the American Petroleum Institute at 7.

reach these areas. Although land-based carriers could accomplish this coverage efficiently through their existing land-based facilities, GMSA carriers would have the Commission adopt two equally unworkable options: first, allow them to provide coastal coverage, as they currently do, through water-based platforms; and second, allow them to locate their cell sites in neighboring land-based carriers' CGSAs.^{13/}

Reliable, ubiquitous coverage cannot be assured through use of water-based facilities because the placement of platforms on which such facilities are located is entirely dependent on the changing needs of oil companies.^{14/} GMSA carriers will likely be even less able to ensure coastal service in the future "as the major petroleum producers move their operations even farther out in the Gulf into increasingly deeper waters."^{15/} Thus, whatever potential existed in the past for GMSA carriers to provide ubiquitous coverage from oil and gas platforms to coastal areas no longer exists.

PetroCom's and Coastel's coastal water service proposals themselves provide the strongest indication that GMSA carriers are unsuitable for insuring ubiquitous, reliable coverage to the coastal waters. PetroCom seeks the right to abandon service to any area, including the

^{13/} See Coastel Comments at 20.

^{14/} Because oil companies cannot engage in operations off the coast of Florida, there is no way for GMSA carriers to serve the coastal waters of that State through water-based sites.

^{15/} Comments of the American Petroleum Institute at 4-5; see id. at 5 n.5 (describing oil and gas field development in deeper waters); id. at 8 (oil and gas production facilities in the Gulf are being "established in ever deeper water"). As described by Shell Offshore Services Company, which is the subsidiary and microwave communications provider to the largest producer of oil and gas in the Gulf, less than 10 years ago the oil and gas industry frequently referred to the Gulf as the "Dead Sea" for purposes of oil and gas operations. Comments of Shell Offshore Services Company at 5. The resurgence of oil and gas operations in the Gulf in the past several years "is primarily attributable to technological advances that now enable the deployment of production facilities at deepwater locations beyond the outer continental shelf." Id.

Coastal Zone, as it deems expedient or necessary without losing the right to reclaim it later.^{16/}

PetroCom also wants to escape its E-911 service obligations in both the Coastal and Exclusive Zones of the GMSA, arguing, inter alia, that its system is not conducive to providing such service.^{17/} Coastel's proposal to have the entire Gulf, including the coastal waters, included within the Exclusive Zone, would contain the same right to abandon service.^{18/} These positions are antithetical to the Commission's goal of ensuring reliable service to coastal areas.^{19/}

The GMSA carriers' "solution" to their problem of constantly moving sites – allowing them to locate towers on land without consent – is wholly unworkable. As explained by AT&T and other land-based cellular licensees^{20/} and admitted by Coastel,^{21/} placement of transmitters within the CGSAs of neighboring land-based licensees poses the same intractable problems of

^{16/} See PetroCom Comments at 8-9. PetroCom insists on this right, which is based on the transience of oil platforms, even though its proposal includes the right to place transmitters in neighboring land-based CGSAs. See id. at 11-14.

^{17/} See PetroCom Comments at 21-22. PetroCom's other arguments for escaping its E-911 obligations are that (1) its oil platform customers have other communications services and procedures that may be used in emergencies, and (2) its boat and helicopter customers "are held to a higher standard of vigilance than is the motorist" and therefore should not need E-911 services. Id.; see also id. at 22-23 (arguing that PetroCom need not contribute to universal service mechanisms). As AT&T described in its Comments, its system has been used repeatedly by boaters for emergency purposes. See Comments of AT&T Wireless Services, Inc. ("AT&T Comments") at 5 & n.9 (attaching Affidavit and newspaper article describing emergency uses of AT&T's cellular system by the boating public); see also Comments of Palmer Wireless, Inc. at 7-8.

^{18/} See Coastel Comments at 14-24.

^{19/} See Notice at 14, ¶ 27; id. at 15, ¶ 30 (goal in determining Coastal Zone boundary is to ensure that boaters in coastal waters can always remain in contact with land "for safety or other reasons").

^{20/} See AT&T Comments at 6-9; Comments of BellSouth Corporation at 12-13; Comments of MobileTel, Inc. at 4-6; Comments of Palmer Wireless, Inc. at 12; Comments of Radiofone, Inc. at 7; Comments of Southwestern Bell Mobile Systems, Inc. at 5-7; Comments of 360° Communications Company at 8-10; Comments of Vanguard Cellular Systems, Inc. at 6-7.

interference (as well as zoning and permitting) that originally moved the Commission to prohibit the placement of GMSA transmitters on land without the consent of the land-based licensee. As commenters point out, much of the land abutting the coast is unavailable for towers and cell sites, requiring Coastal Zone licensees to place facilities further inland, because these areas are environmentally sensitive, not available for commercial development, or prohibitively expensive.^{22/}

Moreover, separating the coastal water areas from the CGSAs of coastal land-based cellular licensees raises significant parity concerns between PCS and cellular providers. As a number of commenters have argued, land-based PCS providers' MTAs and BTAs arguably include any coastal water areas that are included within the county lines of their service areas, and PCS providers are otherwise entitled to serve Gulf coastal areas.^{23/} The coastal areas included within the county lines of PCS providers' MTAs and BTAs would include much of the coastal areas of the Gulf that the Commission would cede, in the case of cellular land-based licensees, to Coastal Zone licensees.^{24/} As a result, land-based PCS licensees would be able offer

^{21/} See Coastel Comments at 27; see also id. at 24-28.

^{22/} See AT&T Comments at 8; Comments of MobileTel, Inc. at 5; Comments of Vanguard Cellular Systems, Inc.

^{23/} See Comments of Aerial Communications, Inc. and Western PCS BTA I Corporation at 2-7; Comments of ALLTEL Mobile Communications, Inc. at 5-6; Comments of BellSouth Corporation at 3-7; Comments of GTE Service Corporation at 7; Comments of PrimeCo Personal Communications, L.P. at 4-26; Comments of Sprint Spectrum L.P. d/b/a/ Sprint PCS at 2-7. Even PetroCom suggests that that PCS providers, but not cellular providers, be allowed to serve the coastal waters. See PetroCom Comments at 18.

^{24/} See Comments of BellSouth Corporation at 3-7; Comments of GTE Service Corporation at 7-8; Comments of Palmer Wireless, Inc. at 16 ("Absent PCS regulation, PCS carriers are able to extend over the GMSA areas at will, while cellular providers are disadvantaged by SAB extension rules.").

service at home territory rates in the coastal areas, but cellular licensees would not unless they also obtained the neighboring Coastal Zone license. As AT&T explained in its comments, a substantial number of AT&T's coastal area customers have purchased AT&T's cellular service for use while on boats along the coast.^{25/} Unless the Commission allows land-based cellular providers to serve adjacent coastal waters, AT&T would be at a significant competitive disadvantage to its PCS competitors.^{26/}

For these reasons, and as set forth in its initial comments, AT&T does not believe that a separately-licensed Coastal Zone is necessary or justifiable.^{27/} Rather, the most workable solution is to allow existing land-based licensees to extend their SABs to meet the need for cellular service in the coastal waters of the Gulf. As a number of commenters have noted, land-based licensees would already provide adequate service to Gulf coastal waters if not for regulatory uncertainty regarding their rights to extend into the Gulf and GMSA carrier opposition to such extensions.^{28/} Given the ease with which existing land-based carriers can extend their service to include the coastal areas and the virtual infeasibility of GMSA carriers providing such service, many commenters agree with AT&T that the Commission should push the boundary of

^{25/} AT&T Comments at 4-5.

^{26/} Likewise, SMR and paging providers advocate Gulf geographic licensing provisions for SMR and paging services that are far more favorable to coastal land-based providers than the Commission has proposed for cellular service. See Comments of the American Mobile Telecommunications Association, Inc. at 1, 3-7 (SMR); Comments of Benbow PCS Ventures, Inc. at 2 (paging); Comments of Nextel Communications, Inc. at 4-5 (SMR); Comments of Paging Network, Inc. at 3-10 (paging, SMR and narrowband PCS); Comments of ProNet Inc. at 4-5 (paging).

^{27/} If the Commission decides to follow the recommendation of many commenters to abandon its Coastal Zone proposal, it need not create an entirely new formula for measuring reliable coverage contours.

the Exclusive Zone away from the coast but not separately license a Coastal Zone.^{29/} PetroCom aside, many carriers who support or do not oppose a separate Coastal Zone believe that land-based carriers should first be given the opportunity to extend their signal to serve that area before issuing new licenses for that area.^{30/} The vast majority of commenters also agree with the Commission that land-based licensees should not have to pull back existing SAB extensions into the Gulf.^{31/}

^{28/} See Comments of BellSouth Corporation at 3; Comments of 360° Communications Company at 3-5; Comments of Southwestern Bell Mobile Systems, Inc. at 3-4.

^{29/} See, e.g., AT&T Comments at 4-6; Comments of BellSouth Corporation at 4-11; Comments of GTE Service Corporation at 2-8; *id.* at 8-12 (GMSA should begin 25 to 50 nautical miles from coast) Comments of MobileTel, Inc. at 2-4; Comments of Palmer Wireless, Inc. at 2-9 (Coastal Zone is unwarranted and GMSA should begin 20 nautical miles from shore).

^{30/} See, e.g., Comments of the Texas RSA 20B2 Limited Partnership at 8-9 (Commission should open one-day filing window to permit system modifications that do not require construction of new facilities); Comments of Southwestern Bell Mobile Systems, Inc. at 7-10 (allow land-based carriers to apply to serve unserved coastal waters under Phase I rules); Comments of Vanguard Cellular Systems, Inc. at 4 n.8 and 7-8 (current land based licensees may be best situated to efficiently serve coastal waters; Vanguard's pending Phase II applications to serve coastal waters should not be dismissed); *but see* Comments of ALLTEL Mobile Communications, Inc. at 2-3 (supporting use of Phase II application proceedings, although recognizing that coastal coverage in certain areas may "be best and most efficiently achieved by land-based carriers"); Comments of Radiofone, Inc. at 7-9 (supporting use of Phase II procedures under which pending applications would not be dismissed); Comments of 360° Communications Company at 6 (supporting Phase II proceedings but noting that "land-based carriers will be the ones able to serve the coastal Gulf area most efficiently and effectively"); Comments of United States Cellular Corporation at 2-9 (supporting Phase II proceedings, except USCC's pending Phase II applications to serve coastal waters, which were unopposed and would not be competitively bid, should not be dismissed).

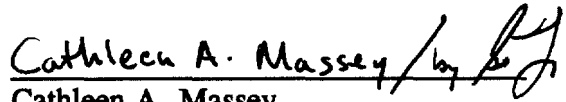
^{31/} See, e.g., Comments of Centennial Cellular Corp. at 2-3; Comments of Palmer Wireless, Inc. at 10-11; Comments of Southwestern Bell Mobile Systems, Inc. at 4-5; Comments of 360° Communications Company at 7; Comments of United States Cellular Corporation at 2. As 360° Communications Company notes, given the reasonably-anticipated length of this proceeding and current unmet demand for cellular service in many areas of the Gulf, additional *de minimis* extensions should be considered and authorized during the pendency of this proceeding. Comments of 360° Communications Company at 10-12.

Conclusion

For the foregoing reasons, and the reasons stated in AT&T's Comments in this proceeding, the Commission should adopt its proposal create a GMSA Exclusive Zone beginning 12 nautical miles from the coast of the United States and grandfather existing land based carriers' SAB extensions into the Gulf of Mexico. The Commission should not, however, adopt its proposals to create a GMSA Coastal Zone, to allow GMSA licensees to place transmitters within the CGSAs of their land-based neighbors, or to create an entirely new formula for measuring reliable coverage contours. The Commission should adopt the most workable and fair method to ensure coastal coverage, which is through extension of existing land-based licensees' systems.

Respectfully submitted,

AT&T WIRELESS SERVICES, INC.


Cathleen A. Massey
Vice President - External Affairs
Douglas I. Brandon
Vice President - External Affairs
1150 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036
202/223-9222

Howard J. Symons
Sara F. Seidman
Gregory R. Firehock
Mintz, Levin, Cohn, Ferris, Glovsky
and Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004
202/434-7300


Of Counsel

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CERTIFICATE OF SERVICE

I, Cheryl Flood, hereby certify that on this 4th day of August, 1997, I caused copies of the foregoing Reply Comments of AT&T Wireless Services, Inc. to be sent by messenger (*) or by first class mail, postage prepaid to the following:


Cheryl Flood

Daniel B. Phythyon (*)
Acting Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Kathleen Abernathy
AirTouch Communications
1818 N Street, N.W.
8th Floor
Washington, D.C. 20036

David Furth (*)
Chief
Commercial Wireless Division
Federal Communications Commission
2025 M Street, N.W.
Room 7002
Washington, D.C. 20554

Louisa Lancetti
Wilkinson, Barker, Knauer & Quinn
1735 New York Avenue, N.W.
Suite 600
Washington, D.C. 20006-5289

Regina Keeney (*)
Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

ITS (*)
1231 20th Street, N.W.
Washington, D.C. 20554

Zenji Nakazawa (*)
Legal Branch
Commercial Wireless Division
Wireless Telecommunications Commission
2025 M Street, N.W., Room 7122A
Washington, D.C. 20554